

§ 7. Amendment Substituting Different Agency To Administer Provisions

An amendment that effects a substitution of one agency for another charged with administering the provisions of the bill may be germane. Accordingly, it has been held that, to an amendment placing certain duties upon an agency of the government, an amendment proposing to place such duties upon another agency was germane;⁽⁶⁾ and where the fundamental purpose of the bill and amendment are clearly related, substituting a different agency to carry out that purpose may not render the amendment not germane.⁽⁷⁾

But a distinction has been made between the mere substitution of a different governmental agency to administer the terms of a bill, and the granting of authority to such an agency to use new and unrelated methods in accomplishing the purposes of the bill.⁽⁸⁾ Discussing amendments ruled out in the past as not germane, the Chair on one occasion stated that the decisions in those cases rested not on the mere substitution of a

new agency, but rather the substitution of unrelated methods of achieving the predetermined end.⁽⁹⁾

The applicable rule therefore seems to be that where a bill proposes regulation of certain activities through the use of a governmental agency, an amendment substituting a different agency is not germane if, in addition, it authorizes such agency to use new and unrelated methods in achieving the purposes of the bill, or if the agency is not one within the jurisdiction of the committee handling the bill.⁽¹⁰⁾

On one occasion, an amendment creating a new agency was held not germane, the Chair noting that the funds to be controlled by the agency were not limited to those authorized by the bill.⁽¹¹⁾

Bill Authorizing Appropriation for Participation in United Nations Relief and Rehabilitation Administration; Amendment Authorizing Appropriation for Relief Purposes But Without Participation in Organization

§ 7.1 To a bill authorizing an appropriation to be ex-

6. §§ 7.1 and 7.9, *infra*.

7. § 7.3, *infra*.

8. § 7.4, *infra*.

9. § 7.7, *infra*.

10. § 7.6, *infra*.

11. § 7.1, *infra*.

pended by the President for participation by the United States in the work of the United Nations Relief and Rehabilitation Administration, an amendment authorizing an appropriation to be expended by the President to carry out the same work but not with the United Nations Relief and Rehabilitation Administration was held to be germane.

The following exchange⁽¹²⁾ indicates the nature of the germaneness argument against the amendment and the disposition by the Chairman⁽¹³⁾ of the point of order raised against the amendment:

MR. LUTHER A. JOHNSON [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane to the pending resolution. The pending resolution is to enable the United States to participate in the work of the United Nations Relief and Rehabilitation organization. The gentleman's amendment simply authorizes an appropriation to be made to the President for a certain character of relief and not within the purview of the pending resolution as stated in the preamble.

THE CHAIRMAN: The Chair is prepared to rule.

12. 90 CONG. REC. 653, 78th Cong. 2d Sess., Jan. 24, 1944. Under consideration was H.J. Res. 192 (Committee on Foreign Affairs).

13. Emmet O'Neal (Ky.).

The amendment offered by the gentleman from Ohio appropriates money for purposes of relief. The Chair feels that it is in line with the general purposes of the bill and overrules the point of order.

Bill Authorizing Assistance to Greece and Turkey Through Reconstruction Finance Corporation—Amendment To Create New Commission To Control Funds Not Limited to Those in Bill

§ 7.2 To a bill authorizing appropriations for assistance to Greece and Turkey through the Reconstruction Finance Corporation, an amendment proposing the creation of a Foreign Funds Control Commission having control of funds not limited to those proposed in the bill was held to be not germane.

A bill⁽¹⁴⁾ relating to appropriations for assistance to Greece and Turkey was under consideration on May 9, 1947. The Chairman⁽¹⁵⁾ ruled out of order as nongermane an amendment offered by Mr. Fred L. Crawford, of Michigan:⁽¹⁶⁾

The Clerk read as follows:

14. Under consideration was H.R. 2616 (Committee on Foreign Affairs).

15. Francis H. Case (S.D.).

16. 93 CONG. REC. 4930, 80th Cong. 1st Sess.

Amendment offered by Mr. Crawford: On page 4, line 22, after the period, add a new section:

"Sec. 3a. There is hereby created the Foreign Funds Control Commission, which shall be an independent agency of Government directly responsible to the Congress.

"The Commission shall consist of three members—a Director, the Comptroller General, and the Secretary of the Treasury. . . .

"The Commission is hereby directed to administer all funds hereafter granted by the Treasury of the United States or previous grants if directed by the Congress to foreign countries, their nationals and agencies of whatever kind or nature.

MR. [CHARLES A.] EATON [of New Jersey]: Mr. Chairman, a point of order. . . . Mr. Chairman, the legislation the gentleman proposes is very important and very fundamental legislation, but it ought to come before the committee in a special bill. I make the point of order that it is not germane to the present bill.

The Chairman, in ruling on the point of order, stated:

The amendment . . . proposes [creation of] a Foreign Funds Control Commission, to be an independent agency of the Government and to have control not merely over the funds proposed to be authorized by the pending legislation but over funds that might be made available under other legislation. Consequently the Chair sustains the point of order and rules that the amendment is not germane.

Bill To Provide Foreign Aid Through Economic Cooperation Administration—Amendment To Provide Aid To Individuals Through Creation of World Relief Corporation

§ 7.3 To a bill providing for economical and financial assistance to foreign countries through an agency to be known as the Economic Cooperation Administration, an amendment to provide similar aid through an agency to be known as "World Relief, Inc." was held to be germane.

In the 80th Congress, during consideration of a bill relating to foreign assistance, an amendment, reading in part as follows, was offered for purposes of creating a corporate body with the function of furnishing aid to individuals:⁽¹⁷⁾

Sec. 102. That there be, and is hereby, created a body corporate with the name "World Relief, Incorporated" (herein called the Corporation). . . .

Sec. 107. That the purposes of this Corporation are and shall be to furnish, directly, food, clothing, and other urgently needed supplies to the needy individuals of the world. The Corporation is hereby specifically prohibited

17. 94 CONG. REC. 3627, 80th Cong. 2d Sess., Mar. 29, 1948. Under consideration was S. 2202 (Committee on Foreign Affairs).

from furnishing food, clothing, or other supplies to the governments of any co-operating country or any political subdivision thereof as distinguished from their individual citizens.

In overruling a point of order against the amendment, the Chairman⁽¹⁸⁾ stated:⁽¹⁹⁾

The bill pending before the committee is a bill of considerable latitude. The title reads:

An act to promote the general welfare, national interest, and foreign policy of the United States through necessary economic and financial assistance to foreign countries which undertake to cooperate with each other in the establishment and maintenance of economic conditions essential to a peaceful and prosperous world. . . .

[T]he amendment that is offered in its present form does not, in the opinion of the Chair, go beyond the very general purposes outlined in the bill before us.

The Chair, therefore, overrules the point of order.

Bill To Provide Foreign Aid Through Government Agencies—Amendment Providing Aid Through Red Cross by Different Methods of Distribution

§ 7.4 To a bill providing relief to foreign countries through government agencies, an amendment providing for

18. Francis H. Case (S.D.).

19. 94 CONG. REC. 3629, 80th Cong. 2d Sess., Mar. 29, 1948.

such relief to be made through the Red Cross, to be distributed by methods not contemplated in the bill, was held to be not germane.

In the 80th Congress, during consideration of a foreign aid bill, an amendment was offered for purposes of giving the Red Cross and similar organizations responsibilities with respect to providing relief to foreign countries.⁽²⁰⁾ The nature of the objections to the amendment, and the ruling by the Chairman,⁽¹⁾ are indicated below:

MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill H.R. 4604, which, as its title indicates, is "to promote world peace and the general welfare, national interest, and foreign policy of the United States by providing aid to certain foreign countries." The entire structure of the bill provides for aid furnished by this Government to governments of other countries. The section of the bill in question . . . provides for agreements that the recipient countries are required to make before any of the aid is supplied. This amendment would provide a new subsection . . . by which the foreign country is not only required to insure the distribution of the bulk of the products through private organizations selected

20. 93 CONG. REC. 11242, 80th Cong. 1st Sess., Dec. 10, 1947. Under consideration was H.R. 4604 (Committee on Foreign Affairs).

1. Earl C. Michener (Mich.).

by an American representative, but each of the foreign countries is required to make an undertaking that the other countries insure that these private organizations selected by the American representative carry out the distribution.⁽²⁾

THE CHAIRMAN: . . . This is a bill to provide relief for specified foreign countries. A specific method is provided for administering that relief. That method proposed requires an agreement between the governments involved. The bill provides that the recipient governments must administer the relief in their respective jurisdictions. . . .

[The] amendment . . . creates a new plan of distribution, including participation by the Red Cross. . . . Part of the amendment undoubtedly is germane, but the amendment goes further and provides for distribution in a method and a manner not contemplated in section 5 or in the bill.⁽³⁾

Bill To Create Division of Water Pollution Control in Public Health Service—Amendment Proposing Water Pollution Study by Chief of Engineers and Surgeon General

§ 7.5 To a bill creating a division of water pollution control in the Public Health Service, to conduct a survey, issue a report, and to control

2. 93 CONG. REC. 11242, 80th Cong. 1st Sess., Dec. 10, 1947.

3. *Id.* at p. 11244.

pollution, an amendment in the nature of a substitute proposing a comprehensive water pollution study by the Chief of Engineers and the Surgeon General of the Public Health Service was held to be germane.

During consideration of a bill establishing a division of water pollution control in the Public Health Service, the following amendment in the nature of a substitute was offered:⁽⁴⁾

That the Chief of Engineers of the War Department and the Surgeon General of the Public Health Service, Treasury Department, are authorized and directed to make jointly a comprehensive study of water pollution and the means of eliminating or reducing water pollution. . . .

A point of order against the amendment was made as follows:

MR. FRED M. VINSON [of Kentucky]: Mr. Chairman, I make the point of order that the amendment is not germane to the section and not germane to the bill. . . .

I do not have the amendment before me . . . but section 1 establishes a division of water-pollution control in the Public Health Service.

Nothing whatever is contained in section 1 [of the bill] with reference to

4. 81 CONG. REC. 3694, 75th Cong. 1st Sess., Apr. 21, 1937. Under consideration was H.R. 2711 (Committee on Rivers and Harbors).

the purposes set out in the amendment offered by the gentleman from Missouri.

The proponent of the amendment, Mr. John J. Cochran, of Missouri, in defending the amendment, stated:

This bill provides for the stopping of pollution in the streams of the United States. That is the very purpose of my amendment. When the report is received from the Engineers of the War Department and the Public Health Service, then this Congress will have something to work on and can act intelligently.

The Chairman⁽⁵⁾ ruled as follows: ⁽⁶⁾

The Chair may say in reference to the point of order made by the gentleman from Kentucky [Mr. Fred M. Vinson] that the proposed amendment offered by the gentleman from Missouri [Mr. Cochran] provides for a survey and a report. The pending bill, H.R. 2711, not only provides for a survey and report but goes still further and sets up certain machinery to control the pollution of streams.

The Chair is of the opinion that the amendment is germane to the pending bill and therefore overrules the point of order.

Water Resources of Alaska: Investigation by Corps of Engineers in Lieu of Secretary of Interior

§ 7.6 To a bill authorizing the Secretary of the Interior to

5. Wall Doxey (Miss.).

6. 81 CONG. REC. 3694, 75th Cong. 1st Sess., Apr. 21, 1937.

make investigations of projects for the conservation and utilization of water resources of the Territory of Alaska, an amendment proposing that such investigations be made by the Corps of Army Engineers was held to be not germane.

On June 1, 1955,⁽⁷⁾ during consideration of a bill reported by the Committee on Interior and Insular Affairs dealing solely with an investigation of the water resources of the Territory of Alaska (a subject then exclusively within the jurisdiction of the Interior Committee), an amendment was offered to provide that the investigation should be carried out by a department other than the department named in the bill:

MR. [HOMER H.] BUDGE [of Idaho]: . . . Mr. Chairman, it appears to me that the amendment is germane. It substitutes an existing Government agency for another existing Government agency. It carries out the stated purposes of the legislation simply by a substitution of the agency to do the things which are called for in the legislation.

THE CHAIRMAN:⁽⁸⁾ . . . The gentleman's amendment substitutes a de-

7. 101 CONG. REC. 7403, 84th Cong. 1st Sess. Under consideration was H.R. 3990 (Committee on Interior and Insular Affairs).

8. Chet Holifield (Calif.).

partment of the Government which does not come under the jurisdiction of the Committee on Interior and Insular Affairs, and therefore the Chair must rule that it is out of order. The Chair sustains the point of order.

Standards for Wages and Hours To Be Established by New Division in Labor Department in Lieu of Independent Executive Board

§ 7.7 To a bill providing for the establishment of fair labor standards through the utilization of an independent board having certain specified powers, an amendment proposing to accomplish the same result by establishing a wages and hours division in the Department of Labor was held to be germane.

On Dec. 15, 1937, during consideration of a bill concerned with the determination of minimum wages and maximum hours in industry by an independent board exercising broad discretionary powers, an amendment in the nature of a substitute which provided that such determination be made by a division newly established in the Department of Labor was held to be germane; and a further substitute amendment proposing to fix minimum wages and maximum hours in specific

terms without resort to the exercise of discretion by any agency was held to be germane to the amendment in the nature of a substitute. See the proceedings of Dec. 15, 1937, with respect to S. 2475, discussed in § 6.23, *supra*.

Research in Tin Smelting: Control Vested in Bureau of Mines in Lieu of Government Corporation

§ 7.8 To a bill to continue an act providing for the maintenance of a government-owned smelting operation, and for financing of research in tin smelting and processing, an amendment proposing to give control of such research to the Bureau of Mines was held to be germane.

On July 25, 1950, the following amendment was offered to H.R. 8569, reported from the Committee on Banking and Currency, a bill to strengthen the common defense by extending for five years the authority for the Texas City tin smelter operation:⁽⁹⁾

That on or before December 31, 1950, the present lease and smelting agreements, as amended, shall be terminated by the Reconstruction Finance

9. 96 CONG. REC. 11011, 81st Cong. 2d Sess.

Corporation and the operation and management of the Government-owned tin smelter at Texas City, Tex., shall be awarded to bona fide American private enterprise which has no affiliations or interests whatsoever in tin mining or smelting outside of the Western Hemisphere, or, if this cannot be accomplished satisfactorily, such operation and management shall be given to and undertaken by the United States Bureau of Mines, Department of the Interior: And provided further, That all research and experimentation performed with United States Government funds at, or for the Government-owned tin smelter at Texas City, Tex., after December 31, 1950, shall be conducted by or under the supervision of the United States Bureau of Mines.

. . .

In ruling on a point of order made against the amendment, the Chairman⁽¹⁰⁾ stated:⁽¹¹⁾

The Chairman has examined the basic law sought to be extended by the bill now before the committee. The language in the basic law states clearly, among other things, "to finance research in tin smelting and processing, and (4) to do all other things necessary to the accomplishment of the foregoing shall continue in effect until June 30, 1951, or until such earlier time as the Congress shall otherwise provide."

The amendment offered by the gentleman from Pennsylvania [Mr. Saylor] offers an alternative proposition, to place it in other departments of the Government.

Therefore the Chair holds that the amendment is germane and overrules the point of order.

Amendment Substituting National Defense Mediation Board for National Mediation Board as Agency To Perform Same Duties

§ 7.9 To an amendment placing certain duties upon the National Mediation Board, an amendment proposing to place such duties upon the National Defense Mediation Board was held to be germane.

The following exchange in the 77th Congress⁽¹²⁾ concerned an amendment substituting "National Defense Mediation Board" for "National Mediation Board" in a proposition relating to military appropriations:

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make a point of order. The amendment offered by the gentleman from South Dakota deals with the National Mediation Board. The amendment offered by the gentleman from Michigan deals with the National Defense Mediation Board, an entirely different subject and therefore not germane to the original amendment. . . .

10. Prince H. Preston, Jr. (Ga.).

11. 96 CONG. REC. 11011, 81st Cong. 2d Sess., July 25, 1950.

12. 87 CONG. REC. 4905, 77th Cong. 1st Sess., June 9, 1941. Under consideration was H.R. 4965 (Committee on Appropriations).

MR. [ALBERT J.] ENGEL [of Michigan]: . . . The gentleman from South Dakota [Mr. Case] intended to write "National Defense Mediation Board" and unintentionally wrote "National Mediation Board." They are not the same Boards.

THE CHAIRMAN:⁽¹³⁾ In the opinion of the Chair, the amendment offered by the gentleman from Michigan [Mr. Engel] to the amendment offered by the gentleman from South Dakota [Mr. Case] is simply a change in the Board which would have control, under the amendment as offered. The Chair thinks it is entirely in order for the gentleman from Michigan to offer an amendment for a different Board to be charged with the operation than the Board stated in the amendment as originally offered, and therefore overrules the point of order.

§ 8. Individual Proposition Offered as Amendment to Another Individual Proposition

A well-established principle governing questions of germaneness is that one individual proposition may not be amended by another individual proposition even though the two may belong to the same class.⁽¹⁴⁾ The question for the Chair frequently consists in determining what comprises an "individual proposition."⁽¹⁵⁾ For

13. Fritz G. Lanham (Tex.).

14. See, for example, §§ 8.8, 8.17, *infra*.

15. Where a bill relates to the maintenance and administration of a cer-

example, it has been held that, to a bill relating to relief for one class, an amendment seeking to include another class is not germane.⁽¹⁶⁾

Appropriation Bill Containing Funds for Agency—Amendment Appropriating Funds for Different Agency for Related Purpose

§ 8.1 To a portion of an appropriation bill containing funds for a certain purpose to be expended by one government agency, an amendment containing funds for another government agency for the same general purpose may not be germane although authorized by law; thus, to a title of a general appropriation bill containing funds for energy programs administered by the Department of Energy, an amendment appropriating a portion of those funds for a pilot wood utilization program authorized by law to be conducted by the Department of

tain parkway, a proffered amendment affecting the administration of a different parkway is not germane. See § 3.60 (Parliamentarian's Note), *supra*.

16. See § 13.19, *infra*.